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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL MORTON,

Plaintiff,

vs.

ROCKY MOUNTAIN HOSPITAL AND
MEDICAL SERVICES, INC. d/b/a ANTHEM
BLUE CROSS AND BLUE SHIELD

Defendants.

Case No.: 2:23-cv-01320-GMN-DJA

**STIPULATION AND ORDER TO
MODIFY SCHEDULING ORDER TO
INCLUDE EXTENDING TIME FOR
DETERMINATION OF THE SCOPE OF
DISCOVERY AND MERITS BRIEFING**

[First Request]

Plaintiff and Defendant, by and through their counsel, state the following:

1. This is an ERISA case for which unique scheduling issues exist.
2. This Court entered the Parties' Discovery Plan and Scheduling Order, as amended by the Court (the "DPSO"), on August 19, 2024. ECF No. 31.
3. The DPSO required, among other things, that the parties either stipulate or file motions to determine the standard of review.
4. Counsel for the Parties met and conferred did not stipulate as to the applicable standard of review in this matter. The parties' briefing concerning the applicable standard of review has been submitted to the Court. ECF Nos. 41-49, 51-55. No decision has been made concerning the applicable standard of review.

1 5. The DPSO provided that “[t]he scope of discovery and any discovery limitations
2 will be decided after the standard of review is determined by stipulation or order of the Court”
3 and that “[t]he parties shall submit a stipulation or motion to decide the scope of discovery and
4 any discovery limitations within 21 days after the standard of review is decided.” ECF No. 31 at
5 page 2 of 4.
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7 6. The DPSO further provided a briefing schedule concerning “Merits Briefing”
8 with Plaintiff’s opening brief being due on February 7, 2025. ECF No. 31 at page 3 of 4.

9 7. Given that the Court’s ruling on the standard of review and scope of discovery
10 may impact Merits Briefing, the parties stipulate and request that the Court modify the DPSO
11 that is currently in effect as follows:
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- 13 a. The DPSO provision stating that any stipulation or motion to decide the
14 scope of discovery and any discovery limitations be filed within 21 days after
15 the standard or review is decided shall remain in effect.
- 16 b. The Merits briefing deadlines shall be extended, with Plaintiff’s opening
17 brief being due thirty (30) days after the close of any discovery permitted by
18 the Court.

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1 8. This Stipulation is being filed in good faith and not for the purposes of delay, nor
2 is it prejudicial to either Party.

3 **IT IS SO AGREED AND STIPULATED:**

4 **WHITMIRE LAW, PLLC**

5 /s/ James E. Whitmire

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Attorney for Defendant

11 **IT IS SO ORDERED:**

12 DATED: 1/21/2025

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14 DANIEL J. ALBREGTS

15 UNITED STATES MAGISTRATE JUDGE